101ST CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
101-38

ALLOWING MEMBERS OF CONGRESS TO USE THE FRANKING PRIVILEGE TO DISTRIBUTE COPIES OF THE CONSTITUTION

APRIL 25, 1989.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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Mr. FORD of Michigan, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany H.R. 1149]

[Including cost estimate of the Congressional Budget Office]

The Committee on Post Office and Civil Service, to whom was referred the bill (H.R. 1149) to allow Members of Congress to use the franking privilege to disseminate copies of the Constitution of the United States, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE

The purpose of H.R. 1149 is to allow Members of Congress to use the franking privilege to disseminate copies of a pocket-size commemorative edition of the Constitution of the United States prepared under the auspices of the Commission on the Bicentennial of the United States Constitution.

COMMITTEE ACTION

H.R. 1149 was introduced by the Honorable Philip M. Crane on February 28, 1989, and is cosponsored by the Honorable Lindy (Mrs. Hale) Boggs and the Honorable William D. Ford. On April 12, 1989, the Committee on Post Office and Civil Service, by a voice vote, and with a quorum present, ordered the bill reported favorably.

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BACKGROUND

The Constitution was drafted and signed in Philadelphia in 1787, and nearly 2 years passed before the process of ratification was completed. The first Congress convened in March of 1789. In 1983, the Congress, by law (Public Law 98-101), established the Commission on the Bicentennial of the United States Constitution. That Commission was established to promote and coordinate activities to commemorate the bicentennial of the Constitution.

Mrs. Boggs and Mr. Crane represent the House of Representatives on the Commission. In connection with the Commission's activities, they are proposing that a special commemorative pocket-size version of the Constitution honoring the Bicentennial of the Congress be printed through contributions from the private sector. These commemorative constitutions would be given to Members for distribution as postal patron mailings that have the potential of reaching every household in the United States.

Because printing of the constitutions will be paid for by private contributions and the copies will acknowledge the donors who made those contributions, the documents, under existing law, cannot be mailed under the frank. Section 3210(f) of title 39, United States Code, precludes the mailing under the frank of any mass mailing unless the cost of preparing and printing the mailing is paid exclusively from appropriated funds. Section 3215 of title 39 prohibits any loan of the frank (franked mailing of copies prepared by the Bicentennial Commission could be construed as a loan of the frank). The bill overcomes the provisions of sections 3210(f) and 3215.

STATEMENT

Shortly after he introduced the bill, Mr. Crane explained the need for this legislation in a statement on the House floor:

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> As we all know, the Constitution was drafted and signed in Philadelphia in 1787, and nearly two years passed before the process of ratification was completed leading to the first Congressional elections in the fall of 1788. In March of 1789, the First Congress convened in New York City, followed by the inauguration of our first President, George Washington, in April, and the Government of the United States under the Constitution began to function.
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> Two centuries later we are not only celebrating the 200th birthday of our Constitution, but even more remarkable, we honor the oldest continuing system of national government under a written charter in existence in the world.
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> Plans are well along to commemorate the Bicentennial of the Congress with a number of special programs and projects that will take place here at the Capitol and elsewhere in Washington, D.C. I would like to commend to all Members' attention the excellent work being done by the

respective Bicentennial Commissions of the Senate and House.

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Although Members and visitors to our nation's capital, as well as academicians working on specific projects, will be fully cognizant of the Congressional Bicentennial, much of what is being planned will have its greatest impact on audiences who are inside the Washington beltway. I believe that since Congress is the branch of the Federal Government closest to the American people, its Bicentennial should be commemorated not only on Constitution and Independence Avenues, but also on the Main Streets across America.

We have an opportunity to share this special occasion with our constituents in a way that will achieve the further benefit of increasing citizen knowledge of the very bedrock of our government, the United States Constitution.

We are proposing that a special commemorative "pocket-size" version of the Constitution honoring the Bicentennial of the Congress be printed through contributions from the private sector, and then be given to Members for distribution as a postal patron mailing that has the potential to reach every household in the United States.

These Constitutions will be attractively designed to make them worthy of being saved by citizens as a momento of an important event in American history. Each copy would contain in addition to the text of the Constitution a listing of major donors, a subject index, the names of the members of the national Constitution Bicentennial Commission, and a printed letter from the Member to his or her constituents.

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The bill being introduced today is designed to provide a one-time waiver of the franking statutes to allow Members to distribute these Constitutions as one of the six postal patron mailings permitted each year.

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This project has the potential to be a "win-win" situation. The public wins by receiving an educational commemorative keepsake having historical value and significance, the Congress wins by achieving broad public recognition of its Bicentennial, the Constitution wins by gaining increased citizen awareness of its provisions—including civic rights as well as responsibilities, Members win by having the opportunity to communicate with constituents on behalf of a worthy project whose production cost will be underwritten by donated funds and whose distribution will be achieved through mailing privileges already available, and the private sector wins by achieving good will and name recognition through participation in an official con-

> gressional publication which has the potential of reaching 100 million residences thoughout the United States.
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> This unique opportunity is made possible because the Congress created the national Commission on the Bicentennial of the United States Constitution, which as a Federal agency is empowered to receive contributions from the private sector to support Constitutional commemorative programs, and which, in turn, can work with the Congress in helping produce and make these booklets available to Members for their use. The legislation being introduced today takes care of the remaining issue by allowing these Constitutions to be mailed under the frank through a one-time special waiver in recognition of the Bicentennial of the United States Congress.
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(135 Cong. Rec. E655 (daily ed. March 6, 1989) (statement of Rep. Crane)).

The committee understands that in making copies of the Constitution available to Members and Senators, the Commission will coordinate mailings to ensure that only one copy of the Constitution is mailed to any given mailing address.

SECTION ANALYSIS

Section 1—Authority to use the franking privilege

Section 1 of the bill provides that notwithstanding section 3215 of title 39, United States Code, copies of any commemorative edition of the Constitution of the United States prepared under the auspices of the Commission on the Bicentennial of the United States Constitution may be mailed by Members of Congress as franked mail. Section 3215 of title 39 prohibits the loan of the frank by a person entitled to use it.

Section 2—Provisions relating to use of authority

Section 2(a) of the bill provides that nothing in the bill shall be considered to exclude any matter mailed by a Member of Congress from the provisions of law which: (A) require a Member of the House to submit any proposed postal patron mailing to the House Commission on Congressional Mailing Standards for an advisory opinion (39 U.S.C. 3210(d)(6)(A)); or (B) which permits the Senate Select Committee on Ethics to require Senators to submit postal patron mailings (39 U.S.C. 3210(d)(6)(B)). Section 2(a) also provides that nothing in the bill shall be considered to exclude any matter mailed pursuant to the bill from any numerical limitation under section 3210(d)(5) of title 39. Under that section, for example, clause 2 of Rule XLVI of the Rules of the House of Representatives limits Members of the House to no more than six district-wide postal patron mailings each year.

Section 2(b) provides that in applying section 3210(f) of title 39, the source of funding for the preparation and printing of the commemorative constitutions (which will consist primarily of private sector donations) shall not be taken into account for purposes of any mass mailing made pursuant to the bill. Section 3210(f) of title

39 provides, generally, that a mass mailing which is otherwise frankable may not be mailed under the frank unless the cost of preparing and printing the mailing is paid exclusively from appropriated funds.

Section 3—Reimbursement for mailings

Section 3 provides that in computing the amount of any lump-sum appropriation pursuant to section 3216(a) of title 39, an appropriate reduction shall be made to reflect the amount of any payment which the Commission on the Bicentennial may make to the United States Postal Service for the purpose of defraying postage costs and any other fees or charges associated with any mailings made pursuant to the bill. Thus, if private donations received by the Commission are sufficient to pay part or all of the costs of mailing the constitutions, and payment is made by the Commission to the Postal Service, the Congress would not be charged for mailing the documents under the frank.

Section 4—Definitions

Section 4 of the bill defines various terms for purposes of the bill.

Paragraph (1) of section 4 defines "franked mail" as having the meaning given that term by section 3201(4) of title 39. Section 3201(4), in turn, defines "franked mail" as mail which is transmitted under a frank.

Paragraph (2) of section 4 defines "Members of Congress" as having the meaning given that term by section 3201(5) of title 39. Section 3201(5), in turn, defines "Members of Congress" as including Senators, Representatives, Delegates, and Resident Commissioners.

Paragraph (3) of section 4 defines "Members of the House of Representatives" as a Member of the House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

Paragraph (4) of section 4 defines "mass mailing" as having the meaning given that term by section 3210(a)(6)(E) of title 39. Section 3210(a)(6)(E), in turn, defines "mass mailing" as newsletters and similar mailings of more than five hundred pieces in which content of the matter mailed is substantially identical.

Section 5—Termination

Section 5 provides that the authority for a Member of Congress to send any matter as franked mail under this Act terminates at the end of calendar year 1989.

COST

The cost estimate prepared by the Congressional Budget Office pursuant to sections 308(a) and 403 of the Congressional Budget Act of 1974, as amended, is set forth below:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 19, 1989.

Hon. WILLIAM D. FORD,
Chairman, Committee on Post Office and Civil Service, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 1149, a bill to allow Members of Congress to use the franking privilege to disseminate copies of the Constitution of the United States, as ordered reported by the House Committee on Post Office and Civil Service, April 12, 1989. CBO estimates that enactment of the bill would result in costs to the federal government of $9 million to $10 million in fiscal years 1989 and 1990.

H.R. 1149 would permit copies of commemorative edition of the Constitution of the United States prepared under the auspices of the Commission on the Bicentennial of the U.S. Constitution to be mailed by Members of Congress as franked mail. This authority would terminate at the end of calendar year 1989. Such mailings would be subject to annual limitations on franked mailings by Members of Congress.

CBO estimates that enactment of the bill would result in costs to the federal government of $9 million to $10 million in fiscal years 1989 and 1990. This estimate assumes that one copy of the U.S. Constitution would be mailed to each household, and that such mailings would be in addition to, and not a substitution for, other mailings by Members of Congress. The mailing cost per copy would be 10.1 cents, for 90 million to 100 million households. Costs to the federal government would be les if copies are not sent to all households, or if the Commission on the Bicentennial of the United States Constitution makes a payment to the U.S. Postal Service to cover some of the postage costs associated with such mailings.

No costs would be incurred by state or local governments as a result of enactment of this bill.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mitchell Rosenfeld, who can be reached at 226–2860.

Sincerely,

ROBERT D. REISCHAUER,
Director.

OVERSIGHT

Under the Rules of the House of Representatives, the Committee on Post Office and Civil Service is vested with legislative and oversight jurisdiction over the subject matter of this legislation.

The Committee received no report of oversight findings or recommendations from the Committee on Government Operations pursuant to clause 4(c)(2) of House Rule X.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of House Rule XI, the committee has concluded that enactment of H.R. 1149 will have no inflationary impact on the national economy.

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